

## Department of Education

3401.670-2

### Subpart 3401.5—Agency and Public Participation

#### 3401.501 Solicitation of agency and public views.

##### 3401.501-2 Opportunity for public comments.

Unless the Secretary approves an exception, the Department issues the EDAR, including any amendments to the EDAR, in accordance with the procedures for public participation in 5 U.S.C. 553. Comments on proposed Department notices of proposed rule-making may be made at <http://www.regulations.gov>.

### Subpart 3401.6—Career Development, Contracting Authority, and Responsibilities

#### 3401.601 General.

(a) Contracting authority is vested in the Secretary. The Secretary has delegated this authority to the CAO. The Secretary has also delegated contracting authority to the SPE, giving the SPE broad authority to perform functions dealing with the management direction of the entire Department's procurement system, including implementation of its unique procurement policies, regulations, and standards. Limitations to the extent of this authority and successive delegations are set forth in the respective memorandums of delegations.

##### 3401.602-3 Ratification of unauthorized commitments.

(a) *Definitions.* As used in this subpart, *commitment* includes issuance of letters of intent and arrangements for free vendor services or use of equipment with the promise or the appearance of commitment that a contract, modification, or order will, or may, be awarded.

##### (b) *Policy.*

(1) The HCA or Chief of the Contracting Office may, or may not, later ratify unauthorized commitments made by individuals without contracting authority or by contracting officers acting in excess of the limits of their delegated authority. Law and regulation requires that only individuals acting within the scope of their author-

ity make acquisitions. Within the Department, that authority vests solely with the Contracting Officer. Acquisitions made by other than authorized personnel are matters of serious misconduct. The employee may be held legally and personally liable for the unauthorized commitment.

(2) Ratifications do not require concurrence from legal counsel.

(3) The person who made the unauthorized commitment must prepare the request for approval that must be submitted through the person's manager to the approving official.

(4) The Chief of the Contracting Office may review and sign or reject ratification requests up to \$25,000.

(5) All other ratification requests must be reviewed and signed or rejected by the HCA.

#### 3401.670 Nomination and appointment of contracting officer's representatives (CORs).

##### 3401.670-1 General.

(a) Program offices must nominate personnel for consideration of a COR appointment in accordance with the Department's COR Policy Guide.

(b) The contracting officer must determine what, if any, duties will be delegated to a COR.

(c) The contracting officer may appoint as many CORs as is deemed necessary to support efficient contract administration.

(d) Only individuals with a written delegation of authority from a contracting officer may act in any capacity as a representative of that contracting officer, including any alternate, assistant, or back-up duties to the COR.

(e) For all contracts in which an information technology system exists, the System Security Officer for that system will perform all responsibilities necessary for contractor access to the system.

##### 3401.670-2 Appointment.

COR appointments must be in accordance with the Department's COR Program Guide.